

or 6 30-gallon drums of spray pesticides and herbicides. It is done all the time. That would, of course, violate the rule these days unless I had a security plan for my trip to Dickinson to pick up 4 or 5 30-gallon drums of chemicals to spray on the crops in the field near Regent, ND.

That is what this rule now would provide. It is a bad rule. It does not mean, in my judgment, to include family farmers. It doesn't mean to put them in handcuffs with respect to the way they handle chemicals and propane and gasoline. But in fact it does. I don't want farmers to be in violation of the rule or in violation of the law. I don't think the Department of Transportation or the Congress, in implementing this rule, anticipated this kind of burden with respect to family farms.

In fact, the University of Illinois Extension Service put out an extension agriculture update. Let me describe what it says. It states the rule by DOT says persons, including farmers, who ship or transport hazardous materials in commerce in amounts that require the shipment to be placarded, must develop and implement security plans by September 25, 2003. Examples of materials to which the security plan apply include explosives such as dynamite, detonators, pesticides, fertilizer, hydrous ammonia, ammonia nitrate, and fuels such as gasoline and propane. If you ship or transport fertilizers, pesticides, gasoline, propane and packages or containers that are larger than 119 gallons, or the total quantity you ship or transport at any one time is more than 1,000 pounds, then you must have a security plan. If you are a supplier who delivers the pesticides, fertilizers, and fuels you use to your farm, then you don't need that security plan. And if you only transport fertilizers, pesticides, and fuels between the fields of your farm, then you don't need to have a security plan. But if you drive to town to get the chemicals, fertilizers, or fuel, then you have to have a security plan.

Incidentally, the text I have just read from is part of a U.S. Department of Transportation fact sheet, and it was entitled "Hazardous Materials Transportation Security Requirements, Applicability to Farmers and Farming Operations." That was available from the Department of Transportation's Web site earlier this fall. But it now has been removed. It is gone. You now can't find it. If you ask where did this come from, what happened to it, why is it gone, I don't have the foggiest idea. All I know is what it said, and it doesn't say it anymore. Now we are told the Department of Transportation is putting this security plan on hold despite the fact it is the rule, and they are now beginning to discuss the issue with the U.S. Department of Agriculture. They are discussing it with State departments of transportation, and the American Farm Bureau.

That is also in the piece of information from the University of Illinois Extension Service.

First of all, when the Department of Transportation does a rule, you would expect they would do it right side up. You do the consultation first. Then you develop the rule having knowledge of how people react to it and what their notion is of how it should work and how it would apply. In this case, apparently they wrote a rule dealing with hazardous material transportation, including basic fuels and chemicals, and now are beginning to consult with others about how this would impact family farmers.

I am offering an amendment that clarifies using the definition of family farmers in the farm bill, and that this does not apply to family farmers in the routine business of family farming. Somebody with a pickup truck and a service tank in the back full of gasoline that is moving around is not going to have to have a security plan to do that. Someone who is hauling a few 30-gallon drums of chemicals from the shop in town out to their farm doesn't need a security plan to do that. If we are going to have every family farm developing security plans, who is going to enforce that? Who is going to inspect it? Who is going to determine whether it meets DOT inspections and requirements and specifications?

I just think this is a circumstance where it is a template that is put over everything that doesn't fit at all for family farmers. Family farmers do a pretty good job out on the farm. They work hard and try hard. They are the Americans who live with hope. They put a seed in the ground and they hope. They hope it rains, they hope it grows, they hope it doesn't hail, and they hope the insects don't come. They hope they don't get drought or too much moisture, and they hope, finally, if they are able to get it harvested they can haul it to the elevator and get a decent price. They don't ask for a lot. They certainly ask us to stay out of their way with respect to rules and regulations that don't make basic common sense and that do not meet the test of common sense.

This attempt by the Department of Transportation, laudable as it might be, to try to require the development of security plans for the movement of large quantities of hazardous material—certainly dynamite, detonators, and so on, I understand that. But when you talk about gasoline and farm chemicals, we must understand there is a difference between substantial movement from commercial operators and the ordinary transportation of farm chemicals and farm fuel by family farmers around this country.

For that reason, I have offered an amendment that I hope will meet the test of changing this regulation in a manner that represents some basic common sense and relieve the burden from family farmers. As a matter of fact, family farmers are not complying

with this. They really effectively cannot comply with it. The Department of Transportation has indicated to some that they would probably not enforce it. You have the Agriculture Extension Service telling farmers, here is what you have to do to comply with the rule that is virtually unenforceable and really doesn't make any sense.

When we see things here that do not meet a test of common sense, what we ought to do is legislate and change it. That is what I propose to do with respect to the hazardous materials transportation requirements.

Let me again say I believe there is a requirement for us to be concerned about the movement of hazardous materials in our country. I fully support the Department of Transportation. They have a difficult and vexing job to try to respond to all of these things. But this particular rule does not meet the requirements, and does not meet the test of common sense dealing with family farmers.

I have not yet offered the amendment. I would like to send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 2267.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 880, after the item following line 6, insert the following:

SEC. 1621. EXEMPTION FROM CERTAIN HAZARDOUS MATERIALS TRANSPORTATION REQUIREMENTS.

(a) DEFINITION OF ELIGIBLE PERSON.—In this section, the term "eligible person" means an individual or entity that is eligible to receive benefits in accordance with section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308-3a).

(b) EXEMPTION.—Subject to subsection (c), part 172 of title 49, Code of Federal Regulations, shall not apply to an eligible person that transports or offers for transport a fertilizer, pesticide, or fuel for agricultural purposes, to the extent determined by the Secretary.

(c) APPLICABILITY.—Subsection (b) applies to—

(1) security plan requirements under subpart I of part 172 of title 49, Code of Federal Regulations (or a successor regulation); and

Mr. DORGAN. Mr. President, I have described the amendment in some detail. I say to my colleague from Oklahoma I would be happy if he would like to have the amendment approved now. But, if not, if there are some issues with respect to language or some discussions we should have with you and your staff about the breadth of this, I would be happy to do that as well. This bill will be on the floor for a number of days. I am only anxious to make certain we dispose of this and approve it before we complete this bill. My attempt is, of course, to cooperate with those who are managing the bill.